

## **MINUTES OF THE CITY COUNCIL**

**SAN JOSE, CALIFORNIA**

**TUESDAY, NOVEMBER 6, 2012**

The Council of the City of San José convened in Regular Session at 9:02 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Constant, Herrera, Nguyen, Rocha; Reed.

Absent: Council Members - Chu, Kalra, Liccardo, Oliverio, Pyle. (Excused)

### **STRATEGIC SUPPORT SERVICES**

#### **3.2 Accept Labor Negotiations Update.**

There was no Staff presentation.

### **CLOSED SESSION**

Upon motion unanimously adopted, Council recessed at 9:03 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation in three (3) matters. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (a) with respect to existing litigation: (1) Luis Hernandez and Cindy Calderon v. City of San José, et al; Names of Parties Involved: Luis Hernandez, Cindy Calderon, City of San José, San José Police Department, Ernie Alcantar, individually and in his capacity as Captain, San José Police Department and James Werkema, individually and in his official capacity as Lieutenant, San José Police Department; Court: United States District Court, Northern District of California, San José Division; Case No: CV12-02952 HRL; Amount of Money or Other Relief Sought: Damages according to proof. (2) Correria v. City of San José, et al; Names of Parties Involved: Thomas Correa, City of San José, San José Police Department, Lt. Michael Sullivan, Sgt. Kimberly Hudson; Court: United States District Court, Northern District of California, San José Division; Case No: CV12-05436 HRL; Amount of Money or Other Relief Sought: Damages according to proof. (3) City of San José v. Micrel International Corporation; Names of Parties Involved: City of San José, Micrel International Corporation and Does, inclusive; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV223515; Amount of Money or

## CLOSED SESSION (Cont'd.)

Other Relief Sought: Unpaid sewer connection fees and penalties. (4) San José Police Officers' Association, City of San José; Names of Parties Involved: San José Police Officers' Association, City of San José; Court: State of California, County of Santa Clara; Case No: 1-12-CV-231271; Amount of Money or Other Relief Sought: Petition to Compel Arbitration. (5) AFSCME v. City of San José; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case: SF-CE-972-M; Amount of Money or Other Relief Sought: Damages according to proof. (6) AFSCME v. City of San José; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages according to proof. (7) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters, Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No. SF-CE-970-M; Amount of Money or Other Relief Sought: Damages according to proof. (8) San José Police Officers' Association v. City, et al; Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Dos 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 112CV225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (9) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José, Does 1-50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 112CV233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (C) to confer to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc;

## **CLOSED SESSION (Cont'd.)**

Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/employeerelations/moa.asp>; Telephone for Employee Relations: 408-535-8150.

(D) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation pertaining to the Successor Agency to the Redevelopment Agency of the City of San José in three (3) matters.

By unanimous consent, Council recessed from the Closed Session at 11:00 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Liccardo (1:36 p.m.), Nguyen, Oliverio (1:50 p.m.), Pyle, Rocha; Reed.

Absent: Council Members - All Present.

## **INVOCATION**

Staff Sergeant Brooks Casey accompanied by the Color Guard from the United States Army recognized Election Day and honored Veterans Day. (District 10)

Joyce Randolph sang Our National Anthem, "The Star Spangled Banner".

## **PLEDGE OF ALLEGIANCE**

Mayor Reed, accompanied by the United States Army Color Guard, led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Ceremonial Item 1.5 added to the Amended Agenda. (10-0-1. Absent: Oliverio.)

## CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of November 6, 2012:

### A. Authority to Initiate Litigation:

Authority to initiate litigation was given in one (1) matter. The names of the action(s) and the defendant(s), as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action(s) is/are formally commenced.

Council Vote: Ayes:	Campos, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle, Rocha; Reed.
Noes:	None.
Abstain:	None.
Not Present:	None.

## CEREMONIAL ITEMS

### **1.1 Presentation of a proclamation recognizing November 11, 2012 as Veterans Day in the City of San José in honor of those who have served our nation in the United States Armed Forces. (Mayor/Herrera) (Deferred from 10/30/12 – Item 1.2)**

Mayor Reed and Council Member Herrera recognized November 11, 2012 as Veterans Day in the City of San José honoring those who have serviced our nation in the United States Armed Forces.

### **1.2 Presentation of a commendation to Kelly Estes for her dedication and commitment to spearheading the Veterans Proactive Assistance Task Force. (Chu/Herrera)**

Mayor Reed and Council Members Chu and Herrera recognized and commended Kelly Estes for her exemplary dedication and commitment.

**1.3 Presentation of a proclamation in support of the Shop San José Initiative to Women Impacting Public Policy (WIPP) and representatives of San José's neighborhood business associations declaring November 24, 2012 as "Small Business Saturday" in the City of San José. (Herrera/Economic Development)**

Mayor Reed and Council Member Herrera recognized November 24, 2012 as "Small Business Saturday" in the City of San José.

**1.4 Presentation of a commendation to the Nederlander Organization for its contributions to the arts and musical theatre in San José as it celebrates its 100<sup>th</sup> Anniversary. (Mayor)  
(Rules Committee referral 10/31/12)**

Mayor Reed recognized and commended the Nederlander Organization on its 100<sup>th</sup> Anniversary.

**1.5 Presentation of a commendation recognizing the month of November as "Sikh Awareness Month" in the City of San José. (Mayor/Kalra)  
(Orders of the Day)**

Mayor Reed and Council Member Kalra recognized the month of November as "Sikh Awareness Month" in the City of San José.

## **STRATEGIC SUPPORT SERVICES**

**3.4 Adopt the 18th Supplemental Resolution of the City Council authorizing the issuance of City of San José Airport Revenue Refunding Bonds, Series 2012 in a total aggregate principal amount not to exceed \$49,140,000 to be sold through a private placement with Bank of America Public Capital Corp; approving substantially final forms of the Ninth Supplemental Trust Agreement and Bond Purchase Agreement; and authorizing and approving other related actions in connection with the issuance of the 2012 Bonds. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)**

Documents Filed: Memorandum from Acting Director of Finance Julia H. Cooper, dated October 19, 2012, recommending adoption of a resolution.

Acting Director of Finance Julia H. Cooper presented the report.

Public Comments: David Wall spoke in support to the Staff recommendations.

### 3.4 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Rocha and carried unanimously, Resolution No. 76471, entitled: “An Eighteenth Supplemental Resolution of the Council of the City of San José Approving the Forms of Supplemental Trust Agreement and Bond Purchase Agreement; Providing for the Issuance of City of San José Airport Revenue Refunding Bonds, Series 2012A in an Aggregate Principal Amount Not To Exceed \$49,140,000; Prescribing the Terms, Conditions and Form of Said Series of Bonds; Authorizing the Refunding of City of San José Airport Revenue Bonds Series 2002A; and Authorizing and Approving Other Related Action”, was adopted. (11-0.)

## CONSENT CALENDAR

Upon motion by Vice Mayor Nguyen, seconded by Council Member Constant and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

### 2.1 Approval of Minutes.

There were none.

### 2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29169** – To amend Section 17.72.530 of Chapter 17.72 of Title 17 of the San José Municipal Code to require certain drainage into landscaped areas and to amend Section 20.95.020 of Chapter 20.95 of Title 20 of the San José Municipal Code to extend stormwater requirements to certain small projects and detached single-family residences, and making other clarifying or minor technical amendments to those sections.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29169 executed on October 26, 2012, submitted by the City Clerk.

Action: Ordinance No. 29169 was adopted. (11-0.)

- (b) **ORD. NO. 29170** – Rezoning certain real property situated on the west side of Wilson Avenue, approximately 200 feet southerly of The Alameda, on a 1.04 gross-acre site (45 Wilson Avenue) to the CG Commercial General Zoning District. C12-017

Documents Filed: Proof of Publication of the Title of Ordinance No. 29170 executed on October 26, 2012, submitted by the City Clerk.

Action: Ordinance No. 29170 was adopted. (11-0.)

- 2.2 (c) **ORD. NO. 29171 – Amending Ordinance No. 28178, as amended, to extend the ending date of the pilot for the Neighborhoods Commission to June 30, 2013.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29171 executed on November 2, 2012, submitted by the City Clerk.

Action: Ordinance No. 29171 was adopted. (11-0.)

**2.3 Approval of Council Committee Reports.**

Public Comments: David Wall offered his own points of view that were off topic.

There were none.

**2.4 Mayor and Council Excused Absence Requests.**

There were none.

**2.5 City Council Travel Reports.**

Mayor Reed and Council Members Liccardo and Constant presented details relating to their trip to the 2012 San José/Silicon Valley Chamber of Commerce City-to-City Trip and Study Mission to San Diego, California, which included pension and retirement issues, revitalization of urban areas, the Convention Center and the Family Domestic Violence Center.

**2.6 Report from the Council Liaison to the Retirement Boards.**

Council Member Constant provided highlights of the Federated Retirement Board and Police/Fire Retirement Board Meetings.

Public Comments: David Wall commented on unfunded liabilities.

**2.7 Approve a fourth amendment to the agreement with Public Information and Emergency Response System to extend subscription services for an on-demand online public information and emergency response services through June 30, 2015, at an additional cost of \$47,800, for a total contract amount of \$295,768. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (City Manager's Office)**

Documents Filed: City Council Action Request from Communications Manager Lenka Wright, dated October 26 2012, recommending approval of a fourth amendment to the agreement.

## 2.7 (Cont'd.)

Action: A fourth amendment to the agreement with Public Information and Emergency Response System to extend subscription services for an on-demand online public information and emergency response services through June 30, 2015, at an additional cost of \$47,800, for a total contract amount of \$295,768, was approved. (11-0.)

- 2.8 (a) **Approve a service delivery redesign of the Day Rehabilitation and Therapeutic Drop-In Programs at Grace Community Center.**
- (b) **Authorize the City Manager or designee to seek gap funding from Santa Clara County to support the Drop-In Therapeutic Recreation Services at Grace Community Center.**
- (c) **Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the Grace Community Center Agreement with Santa Clara County to enhance the Therapeutic Drop-In Program, to terminate the Day Rehabilitation Program, and to include available county funding for the redesigned program.**

**CEQA: Not a Project, File PP10-066(e) Services that involve no change to the environment. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated October 19, 2012, recommending approval of a service delivery redesign, authorization for the City Manager to seek gap funding and adoption of a resolution.

Action: A service delivery redesign of the Day Rehabilitation and Therapeutic Drop-In Programs at Grace Community Center was approved, the City Manager or designee, was authorized to seek gap funding from Santa Clara County to support the Drop-In Therapeutic Recreation Services at Grace Community Center and Resolution No. 76468, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Grace Community Center Agreement with Santa Clara County to Enhance the Therapeutic Drop In Program, To Terminate the Day Rehabilitation Program and To Obtain Available County Funding for the Redesigned Program", was adopted. (11-0.)

- 2.9 **Adopt a resolution authorizing the City Manager to execute a second amendment to the Agreement with Conroy & Associates, Inc., to expand the scope of services and to increase compensation related to providing financial background investigation services to the Division of Gaming Control for the period of October 1, 2011, to September 30, 2014, in an additional amount not to exceed \$380,000 for a total compensation not to exceed \$570,000. CEQA: Not a Project, File No. PP10-066(a), Professional Services. (Police)**

Documents Filed: Memorandum from Chief of Police Christopher M. Moore, dated October 15, 2012, recommending adoption of a resolution.



## 2.9 (Cont'd.)

Public Comments: David Wall offered comments on the agreement with Conroy & Associates.

Action: Resolution No. 76469, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Second Amendment to the Agreement with Conroy & Associates, Inc. for the Provision of Financial Background Investigation Services for the Division of Gaming Control", was adopted. (11-0.)

## 2.10 Adopt a resolution pursuant to California Streets and Highways Code Section 101.12 to:

- (a) Designate the name "Little Saigon" to be used on directional signs on State Highway Route 101.
- (b) Recognize and designate the area on Story Road from State Highway Route 101 to Senter Road as "Little Saigon".
- (c) Request the Department of Transportation of the State of California to allow the installation of "Little Saigon" directional signs on State Highway Route 101.

**CEQA: Not a Project; PP10-069, Organizational and administrative activities. Council District 7. (Transportation)**

Documents Filed: (1) Memorandum from Mayor Reed and Vice Mayor Nguyen, dated September 27, 2012, recommending adoption of a resolution. (2) Memorandum from Council Member Chu and Council Member Campos, dated October 25, 2012, recommending adoption of a resolution. (3) City Council Action Request from Director of Transportation Hans F. Larsen, dated October 26, 2012, recommending adoption of a resolution.

Vice Mayor Nguyen presented introductory comments.

Motion: Vice Mayor Nguyen moved approval of the Staff recommendations. Council Member Constant seconded the motion.

Public Comments: Speaking in support to the Staff recommendations were Barry Do, Steven Dovan, H.G. Nguyen, Vietnamese American Chamber of Commerce; David Wall, Van Le, Kim Trang and Ly Tong.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76470, entitled: "A Resolution of the Council of the City of San José Pursuant to California Streets and Highways Code Section 101.12 To (1) Designate the Name 'Little Saigon' To Be Used on Directional Signs on State Highway Route 101; (2) To Recognize and Designate the Area on Story Road from State Highway Route 101 to Senter Road as 'Little Saigon' and (3) Request the Department of Transportation of the State of California to Allow the Installation of 'Little Saigon' Directional Signs on State Highway Route 101", was adopted. (11-0.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

### **3.3 Adopt a statement of Policy and City Council Questions related to the selection of a prospective Finance Department Director as described in the staff memorandum, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)**

Documents Filed: Memorandum from City Manager Debra Figone, dated October 25, 2012, recommending adoption of a Policy and City Council Questions related to the selection of a prospective Finance Department Director as described in the Staff memorandum.

Public Comments: David Wall provided his own point of view.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Nguyen and carried unanimously, a Policy and City Council Questions related to the selection of a prospective Finance Department Director as described in the Staff memorandum with City Charter Section 411, was adopted. (10-0-1. Absent: Kalra.)

### **3.5 Approve an ordinance amending various sections of Chapter 3.28 of Title 3 of the San José Municipal Code to clarify the City Charter supersedes the Federated Retirement Plan in the event of conflict, and clarify the definition of Tier 2 member, and discontinue the Supplemental Retiree Benefit Reserve, clarify actuarial soundness is determined consistent with the California Constitution, and make Medicare enrollment mandatory at age 65. CEQA: Not a Project, File No. PP10-068(b), Municipal Code. (City Manager's Office)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated October 26, 2012, recommending approval of an ordinance. (2) Letter from Association of Legal Professionals, dated November 6, 2012, regarding the ordinance to implement retirement benefits. (3) Letter from San José Retired Employees Association, dated November 5, 2012, regarding the ordinance to implement retirement benefits. (4) Letter from Professional and Technical Engineers, Local 21, AFL-CIO, dated November 6, 2012, regarding the ordinance to implement retirement benefits.

Motion: Council Member Constant moved approval of the Staff recommendations. Vice Mayor Nguyen seconded the motion.

Public Comments: Speaking in opposition to the Staff recommendations were David Wall, Susan Devencenzi, Nancy Ostrowski, Professional and Technical Engineers, Local 21, AFL-CIO; Vera Todorov, Association of Legal Professionals; Bob Leininger, San José Retired Employees Association and Yolanda Cruz, AFSCME/MEF.

City Attorney Richard Doyle and Deputy City Manager Alex Gurza responded to Council questions and concerns.

### 3.5 (Cont'd.)

Action: On a call for the question, the motion carried, Ordinance No. 29174, entitled: "An Ordinance of the City of San José Amending Various Sections of Chapter 3.28 of Title 3 of the San José Municipal Code to Clarify the City Charter Supersedes the Federated City Employees Retirement Plan in Event of Conflict, Clarify the Definition of Tier 2 Member, Discontinue the Supplemental Retiree Benefit Reserve, Clarify Actuarial Soundness is Determined Consistent with the California Constitution and Make Additional Requirements for Mandatory Medicare Enrollment, To Be Effective January 4, 2013", was passed for publication. (7-4. Noes: Campos, Chu, Kalra, Pyle.)

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.1 (a) Adopt a resolution:

- (1) **Authorizing the City Manager or designee to negotiate and execute a Third Amendment to the Neighborhood Stabilization Program 2 ("NSP2") Consortium Funding Agreement with The Housing Trust of Santa Clara County to increase the amount of NSP2 funds allocated to the City from \$19,139,324 to \$21,139,324 and to allow the use of up to \$2,000,000 of NSP2 funds, including program income funds to provide \$1,770,000 for construction and permanent financing for the 75-unit Ford Road Family Housing Project, and \$230,000 for project delivery costs.**
- (2) **Approving a funding commitment to Eden Housing or its designated affiliate for up to \$1,770,000 for a Project construction/permanent loan funded from NSP2 program funds and allowing the capitalization of up to \$254,000 in construction interest to be accrued on the loan.**

### (b) Approval of the following 2012-2013 Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund:

- (1) **Increase the estimate for Recovery Act – Federal Revenue by \$2,000,000.**
- (2) **Increase the appropriation to the Housing Department for the Recovery Act – Neighborhood Stabilization Program 2 project by \$2,000,000.**

**CEQA: Mitigated Negative Declaration, File No. PDC09-022. (Housing/City Manager's Office)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia and Budget Director Jennifer A. Maguire, dated October 22, 2012, recommending adoption of a resolution and appropriation ordinance and resolution amendments.

Motion: Council Member Herrera moved approval of the Staff recommendations. Council Member Kalra seconded the motion.

#### 4.1 (Cont'd.)

Public Comments: David Wall expressed opposition to the Staff recommendations. Andrea Papanastassiou, Eden Housing Inc. spoke in support to the Staff recommendations.

Action: On a call for the question, the motion carried, Resolution No. 76472, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Third Amendment to the Consortium Funding Agreement with the Housing Trust of Santa Clara County and Approving a Funding Commitment to Eden Housing for a Construction/Permanent Loan Funded from Neighborhood Stabilization Program 2 Funds”; Ordinance No. 29175, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Multi Source Housing Fund for the Recovery Act – Neighborhood Stabilization Program 2; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 76473, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 To Adjust Revenues in the Multi Source Housing Fund”, were adopted. (9-1-1. Noes: Oliverio. Absent: Constant.)

#### 4.2 **Consideration of an Ordinance of the City of San José amending Title 20 of the San José Municipal Code by amending Section 20.20.200 of Chapter 20.20, Section 20.30.200 of Chapter 20.30, Section 20.40.200 of Chapter 20.40, Section 20.50.200 of Chapter 20.50, and Sections 20.85.010, 20.85.020, and 20.85.030 of Chapter 20.85. all to amend the height limitations in Airport Influence Areas, to further implement the height policies set forth within the Envision San Jose 2040 General Plan, and to make other technical, nonsubstantive, or formatting changes within those sections of Title 20. CEQA: Envision San José 2040 General Plan Update EIR Resolution No. 76041, File No. PP09-011. Planning Commission recommends approval (6-0-1; Kamkar Absent). (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 16, 2012, transmitting the Staff Report. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated October 25, 2012, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on October 12, 2012, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Joseph Horwedel provided clarifications and responded to Council questions.

Motion: Council Member Chu moved approval of the Staff recommendations. Council Member Herrera seconded the motion.

Council Member Liccardo requested to amend the motion to include direction to Staff to check in with the Federal Aviation Administration (FAA) to identify and engage potential stakeholders. The amendment was accepted by Council Members Chu and Herrera.

## 4.2 (Cont'd.)

Public Comments: David Wall expressed opposition to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 29176, entitled: “An Ordinance of the City of San José Amending Title 20 of the San José Municipal Code by Amending Section 20.20.200 of Chapter 20.20, Section 20.30.200 of Chapter 20.30, Section 20.40.200 of Chapter 20.40, Section 20.50.200 of Chapter 20.50 and Section 20.85.010, 20.85.020 and 20.85.030 of Chapter 20.85, All To Amend the Height Limitations in Airport Influence Areas, To Further Implement the Height Policies Set Forth Within the Envision San José 2040 General Plan and To Make Other Technical, Nonsubstantive or Formatting Changes Within Those Sections of Title 20”, was passed for publication. Staff was directed to check in with the Federal Aviation Administration (FAA) to identify and engage potential stakeholders. (11-0.)

## 4.3 **Consideration of an ordinance rezoning the real property located on the north side of Coleman Avenue, approximately 740 feet easterly of Brokaw Road (1190 Coleman Avenue), from LI Light Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District on an approximately 1.04 gross acre site. CEQA: Envision San José 2040 General Plan Update EIR Resolution No. 76041, File No. PP09-011. C12-016 – District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C12-016, dated October 12, 2012. (2) Proof of Publication of Notice of Public Hearing, executed on October 19, 2012, submitted by the City Clerk.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, Ordinance No. 29177, entitled: “An Ordinance of the City of San José Rezoning Real Property Situated on the North Side of Coleman Avenue, on a 1.04 Gross Acre Site, Approximately 740 Feet Easterly of Brokaw Road (1190 Coleman Avenue) To the CIC Combined Industrial/Commercial Zoning District”, was passed for publication. (11-0.)

## 4.4 **Conduct a public hearing and adopt a resolution to vacate a portion of Emory Street from Stockton Avenue to Laurel Street. CEQA: Mitigated Negative Declaration, PDC07-072. Council District: 6. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works David Sykes, dated October 15, 2012, recommending conducting a public hearing and adoption of a resolution. (2) Letter from Chris Tulin, dated November 5, 2012, regarding the vacation of a portion of Emory Street. (3) Letter from Jeff Bedolla, dated November 6, 2012, regarding the vacation of a portion of Emory Street.

Mayor Reed opened the public hearing.

#### 4.4 (Cont'd.)

Public Comments: Speaking in support to the Staff recommendations were David Wall, Jeff Bedolla, Chris Tulin, Scott Soper and Tom Gorndt, Bellarmine College Prep.

Mayor Reed closed the public hearing.

Motion: Council Member Oliverio moved approval of the Staff recommendations with direction to Staff to omit the 12 foot pedestrian access easement. Council Member Liccardo seconded the motion.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76474, entitled: "A Resolution of the Council of the City of San José Vacating a Portion of Emory Street", was adopted, as amended, with Staff directed to omit the 12 foot pedestrian access easement. (11-0.)

#### 4.5 As recommended by the Community and Economic Development Committee on October 22, 2012:

- (a) Accept the status update on Development Services activity, performance measures, and other activities.
- (b) Accept staff's report on the progress implementing the "Top Five" highest work plan priorities for the Economic Strategy.

**(Planning, Building and Code Enforcement/Economic Development)**

Documents Filed: (1) Memorandum from Mayor Reed, dated November 1, 2012, recommending acceptance of the status update, staff's report on the progress of implementing the top five highest work plan priorities, with direction. (2) Memorandum from City Clerk Dennis D. Hawkins, CMC, dated October 23, 2012, transmitting the recommendations of the Community and Economic Committee. (3) Letter from Pat Sausedo, San José Silicon Valley Chamber of Commerce, dated November 5, 2012, regarding the Top 5 Work Plan Priorities.

Director of Economic Development/Chief Strategist Kim Walesh and Director of Planning, Building and Code Enforcement Joseph Horwedel presented the report and responded to Council questions and comments.

Motion: Vice Mayor Nguyen moved approval of the memorandum from Mayor Reed approving the Staff recommendations, with further direction to Staff. Council Member Oliverio seconded the motion.

Council Member Liccardo requested to amend the motion to include the Sun Garden Shopping Center as one of the priority projects and direction to Staff to return to the Community and Economic Development Committee with the Customer Service Initiative in January 2013. Vice Mayor Nguyen and Council Member Oliverio accepted the amendments.

#### 4.5 (Cont'd.)

Public Comments: David Wall provided comments.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Reed, dated November 1, 2012, was approved, accepting the status update on Development Services activity, performance measures and other activities, and accepting Staff's report on the progress implementing the "Top Five" highest work plan priorities for the Economic Strategy, with the following direction: FOR PRIORITY #1: Work at the speed of business on major development projects that can have a measurable impact on job creation or revenues within the next 18 months. (1) Set a goal of issuing permits for \$1 Billion of new investment in major projects in San José over the next six months. (2) Create a Jobs and Revenue Project Management Team representing the departments of Planning, Building, Public Works, Fire and the Office of Economic Development, who will oversee major projects for office/research and development and campus developments for driving-industry companies, high-rise residential projects and retail projects over 200,000 square feet through the planning and building permit process to get them permitted with expedited review. (3) Present a monthly written report to the Economic Competitiveness Committee on each major project and the status of its permit approvals, as well as a monthly written report on the status of attraction and retention efforts to gain additional major projects. (4) Staff directed to include the Sun Garden Shopping Center as one of the priority projects. (5) Staff directed to return to the Community and Economic Development Committee with the Customer Service Initiative in January 2013. (11-0.)

### REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 It is recommended that the City Council, acting in its capacity as Successor Agency to the Redevelopment Agency, approve the First Amendment to the Agreement with Macias Gini & O'Connell LLP to amend the Scope of Services for the Fiscal Year 2011-12 audit to reflect the dissolution of the former Redevelopment Agency as of February 1, 2012, to increase the current contract amount by \$28,306, for a total fee for the Fiscal Year 2011-12 audits of \$113,750, and a total contract amount not to exceed \$460,418. CEQA: Not a Project, File No. PP10-066, Agreements. (Rules Committee referral 10/31/12)**

Documents Filed: Memorandum from Managing Director Richard A. Keit, dated October 31, 2012, recommending approval of the first amendment to the agreement.

Public Comments: David Wall expressed comments.

## 9.1 (Cont'd.)

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Pyle and carried unanimously, the First Amendment to the Agreement with Macias Gini & O'Connell LLP to amend the Scope of Services for the Fiscal Year 2011-12 audit to reflect the dissolution of the former Redevelopment Agency as of February 1, 2012, to increase the current contract amount by \$28,306, for a total fee for the Fiscal Year 2011-12 audits of \$113,750, and a total contract amount not to exceed \$460,418, was approved. (11-0.)

### NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10128	S/W Corner of Chynoweth Avenue and Cedar Grove Circle	2	San Ramon Land LLC	6 Lots / 6 Units	SFD	Approve

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10128	S/W Corner of Chynoweth Ave and Cedar Grove Cir	2	San Ramon Land LLC	6 Lots / 6 Units	SFD

### OPEN FORUM

- (1) David Wall voiced concern that City Officials were being interviewed by the news media and stated their positions related to Proposition 34; Mr. Wall suggested that Council consider a study session for the Sewer Service and Use Charge and the Storm Sewer and Use Charge.
- (2) Jeff Bedolla expressed concern that following public comment on Item 4.4, the proposal to omit the 12 foot pedestrian access easement was approved, which provided no further opportunity for the public to comment on that new change.



## **ADJOURNMENT**

The Council of the City of San José was adjourned at 4:41 p.m. in memory of Esther Medina; social activist, stalwart of the disenfranchised, and executive director of MACSA for over two decades. Born in a migrant farm workers camp in California, Esther understood from an early age the hardships endured by poverty stricken communities. She advocated for youth and seniors and provided low-income housing to seniors. Throughout her years, Esther was a steadfast and inexorable community leader. Esther passed away on October 17, 2012, at the age of 76. (Campos)

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC  
City Clerk

smd/11-06-12 MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoecac.gov/city> or <http://www.sanjoecac.gov/civiccenter/tv>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.